

REMARKS

This amendment is in response to the Restriction Requirement of March 16, 2006. In the Office Action, the Examiner restricted the claims to:

Claim group I. claims 1, 5, 6 and 10; claim group II. claims 2-4 and 7-9; and claim group III. claims 11 and 12.

Applicant elects group I, claims 1, 5, 6 and 10, along with new dependent claims 13-20, with traverse.

In the last Office Action on the merits, the Examiner allowed claims 2-4, 7-9, 11 and 12 because the Applicant followed the Examiner's instructions to put independent claims 2, 7 and 11 in independent form and paid the required independent claims fees. Applicant filed the RCE in order to continue prosecution of the amended claims 1, 5, 6 and 10 that stand rejected. By now restricting the claims between the rejected claims and the claims allowed by the previous Examiner, the Examiner is effectively withdrawing the allowance of claims 2-4, 7-9, 11 and 12. No new search is required concerning the allowed claims 2-4, 7-9, 11 and 12 and there is no sufficient reason or rationale to restrict the claims at this late stage in the prosecution.

MPEP 706.04 states:

"A claim noted as allowable shall thereafter be rejected only after the proposed rejection has been submitted to the primary examiner for consideration of all the facts and approval of the proposed action.

Great care should be exercised in authorizing such a rejection. See *Ex parte Grier*, 1923 C.D. 27, 309 O.G. 223 (Comm'r Pat. 1923); *Ex parte Hay*, 1909 C.D. 18, 139 O.G. 197 (Comm'r Pat. 1909)....

Full faith and credit should be given to the search and action of a previous examiner unless there is a clear error in the previous action or knowledge of other prior art. In general, an examiner should not take an entirely new approach or attempt to reorient the point of view of a previous examiner, or make a new search in the mere hope of finding something. >*Amgen, Inc. v. Hoechst Marion Roussel, Inc.*, 126 F. Supp. 2d 69, 139, 57 USPQ2d 1449, 1499-50 (D. Mass. 2001)."

Applicant submits that claims 2-4, 7-9, 11 and 12 should not be restricted but should be allowed, giving full faith and credit to the search and examination conducted by the previous Examiner.

Furthermore, the basis for the combination/subcombination restrictions that the combination (claim group I) does not require the particulars of the subcombination (claim groups II or III) is only because the asserted subcombinations were originally dependent claims on the independent claims 1 and 6 of claim group I and which were put into independent form for allowance by instruction of the previous Examiner.

Applicant has added new dependent claims 13-20 being similar to original claims 2-4, 7-9, 11 and 12, and dependent on claims 1 and 6.

Applicant submits that all claims 1-20 are in condition for allowance and requests issuance of the application.

Respectfully submitted,

By:



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